



Journal of the Senate

State of Indiana

114th General Assembly

First Regular Session

Fifty-first Meeting Day

Thursday Afternoon

April 21, 2005

The Senate convened at 1:49 p.m., with the President of the Senate, Rebecca S. Skillman, in the Chair.

Prayer was offered by Reverend John Van Valin, Aldersgate Free Methodist Church, Indianapolis, the guest of Senator Billie J. Breaux.

The Pledge of Allegiance to the Flag was led by Senator Breaux.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Long
Antich-Carr	Lubbers
Bowser	Lutz
Bray	Meeks
Breaux	Merritt
Broden	Miller
Clark	Mishler
Craycraft	Mrvan
Dillon	Nugent
Drozda	Paul
Ford	Riegsecker
Gard	Rogers
Garton	Server
Harrison <input checked="" type="checkbox"/>	Simpson
Heinold	Sipes
Hershman	Skinner
Howard	Smith
Hume	Steele
Jackman	Waltz
Kenley	Waterman
Kruse	Weatherwax
Lanane	Wyss
Landske	Young, M.
Lawson	Young, R.
Lewis	Zakas

Roll Call 459: present 49; excused 1. [Note: A ☒ indicates those who were excused.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

RESOLUTIONS ON FIRST READING

Senate Resolution 35

Senate Resolution 35, introduced by Senator Long:

A RESOLUTION urging the legislative council to assign to the commission on courts the issue of imposing a pretrial service fee on persons supervised by probation officers while on bail awaiting trial.

Whereas, Currently, the expense of the supervision by a probation department of a person released on bail awaiting trial is not offset by any fees; and

Whereas, The expense of the supervision by a probation department of a person on probation could be offset by a probation user fee: Therefore,

*Be it resolved by the Senate of the
General Assembly of the State of Indiana:*

SECTION 1. That the legislative council is urged to assign to the commission on courts the issue of imposing a pretrial services fee on persons supervised by probation officers while on bail awaiting trial.

The resolution was read in full and referred to the Committee on Rules and Legislative Procedure.

Senate Resolution 36

Senate Resolution 36, introduced by Senator Paul:

A SENATE RESOLUTION urging the Legislative Council to direct the Environmental Quality Service Council, or any other interim study committee, to review issues regarding confined feeding operations as set out in ESB 123.

*Be it resolved by the Senate of the
General Assembly of the State of Indiana:*

SECTION 1. That the Legislative Council is urged to direct the Environmental Quality Service Council to review issues addressed in ESB 123 related to confined feeding operations.

SECTION 2. That the committee, if directed, shall operate under the direction of the Legislative Council and shall issue a final report when directed to do so by the council.

SECTION 3. The Secretary of the Senate is hereby directed to transmit copies of this Resolution to transmit copies of this Resolution to the members of the Legislative Council.

The resolution was read in full and referred to the Committee on Rules and Legislative Procedure.

Senate Resolution 37

Senate Resolution 37, introduced by Senator Miller:

A SENATE RESOLUTION urging the legislative council to assign the topic of procedures used in and the costs of infertility treatment to the Health Finance Commission.

Whereas, Due to the increased cost of infertility treatments, the state of Indiana should further study the issues surrounding these treatments: Therefore,

*Be it resolved by the Senate of the
General Assembly of the State of Indiana:*

SECTION 1. That the legislative council is urged to assign the topic of procedures used in and the costs of infertility treatment to the Health Finance Commission.

SECTION 2. That the commission shall operate under the direction of the legislative council and shall issue a final report when directed to do so by the council.

The resolution was read in full and referred to the Committee on Health and Provider Services.

MOTIONS TO DISSENT FROM HOUSE AMENDMENTS

SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 498 and that a conference committee be appointed to confer with a like committee of the House.

SERVER

Motion prevailed.

SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 460 and that a conference committee be appointed to confer with a like committee of the House.

SERVER

Motion prevailed.

REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 549:

Conferees: Long, Chair and Broden

Advisors: Kruse and Lutz

GARTON
Date: 4/20/05
Time: 2:59 p.m.

PRESIDENT PRO TEMPORE'S REPORT OF CONFEEEE CHANGES

Pursuant to Rule 81(c), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has made the

following change in conferee (or advisor) appointments to Engrossed House Bill 1314:

Sipes to replace Skinner as Conferee

GARTON
Date: 4/20/05
Time: 3:25 p.m.

REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 533:

Conferees: Riegsecker and Howard

Advisors: Steele and Bowser

GARTON
Date: 4/20/05
Time: 2:57 p.m.

PRESIDENT PRO TEMPORE'S REPORT OF ASSIGNMENT OF CONFEREES

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed House Bill 1265:

Conferees: Dillon and Rogers

Advisors: M. Young and Smith

GARTON
Date: 4/21/05
Time: 8:53 a.m.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the Speaker of the House has appointed the following Representatives to a conference committee to confer with a like committee of the Senate on Engrossed House Bill 1265:

Conferees:

Pond, Chair

Tincher

Advisors:

Friend and Pelath

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the Speaker of the House has appointed the following Representatives to a conference committee to confer with a like committee of the Senate on Engrossed Senate Bill 533:

Conferees:

Lehe and Mays

Advisors:

Buck, Saunders, and Stevenson

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the Speaker of the House has appointed the following Representatives to a conference committee to confer with a like committee of the Senate on Engrossed Senate Bill 574:

Conferees:

Becker and Avery

Advisors:

Ayres, Espich, and V. Smith

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the Speaker of the House has appointed the following Representatives to a conference committee to confer with a like committee of the Senate on Engrossed Senate Bill 89:

Conferees:

Cherry and Bottorff

Advisors:

Borders and Robertson

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1137.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the Speaker of the House has removed Representative Crooks as a conferee on Engrossed Senate Bill 127 and now appoints Representative Berror thereon.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolution 67 and the same is herewith transmitted for further action.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Senate Concurrent Resolutions 66, 67, and 68 and the same are herewith returned to the Senate.

M. CAROLINE SPOTTS
Principal Clerk of the House

SENATE MOTION

Madam President: I move that Senators Craycraft, Broden, Ford, Lanane, Bowser, and Dillon be added as coauthors of Senate Resolution 29.

MRVAN

Motion prevailed.

MESSAGE FROM THE GOVERNOR

Madam President and Members of the Senate: On April 20, 2005, I signed the following enrolled acts into law: SEA 47, 603, 293, and 197.

MITCHELL E. DANIELS, JR.
Governor

RESOLUTIONS ON FIRST READING

Senate Resolution 16

Senate Resolution 16, introduced by Senators Kenley and Merritt:

A SENATE RESOLUTION to honor the courage and Hoosier spirit of the crew of the USS Indianapolis.

Whereas, The USS Indianapolis was commissioned at the Philadelphia Navy Yard November 15, 1932, and, on July 30, 1945, while sailing from Guam to Leyte Gulf, was torpedoed by a Japanese submarine;

Whereas, When torpedoed, the USS Indianapolis was returning from its assignment to deliver components for the world's second and third atomic bombs to the island of Tinian;

Whereas, The USS Indianapolis capsized and sank in 12 minutes;

Whereas, Of the original 1,196 men on board, approximately 300 went down with the ship;

Whereas, The remaining sailors were left with very few lifeboats and struggled to survive in shark infested waters;

Whereas, On August 2, 1945, while flying a routine antisubmarine patrol in the area, Lieutenant Wilbur C. Gwinn spotted the survivors;

Whereas, By the end of the search on August 8, 1945, only 316 survivors were found;

Whereas, In a highly controversial proceeding, Captain Charles McVay III, the captain of the USS Indianapolis and one of the survivors, was court-martialed and convicted of "hazarding his ship by failing to zigzag", making him the only captain to be court-martialed for losing a ship in combat;

Whereas, In October 2000, President Clinton signed legislation exonerating Captain McVay and the Navy conceded that Captain McVay was innocent of any wrongdoing;

Whereas, The sinking of the USS Indianapolis remains the worst U.S. Naval disaster in history and the worst loss of life from shark attack in naval history; and

Whereas, On the 60th anniversary of this disaster, keeping the memory of the USS Indianapolis and her valiant crew alive is of the utmost importance: Therefore,

*Be it resolved by the Senate of the
General Assembly of the State of Indiana:*

SECTION 1. That the Indiana State Senate honors the members of the USS Indianapolis and remembers the brave sailors who lost their lives.

SECTION 2. That the Secretary of the Senate shall transmit a copy of this Resolution to Paul J. Murphy, chairman of the board of the USS Indianapolis Survivors Organization.

The resolution was read in full and adopted by voice vote.

SENATE MOTION

Madam President: I move that all requests for interim studies, including those made by concurrent resolutions, bills which failed to pass both Houses of the General Assembly, or written or oral requests to the President Pro Tempore of the Senate, are hereby referred to the Legislative Council for further consideration as it deems necessary or appropriate.

GARTON

Motion prevailed.

MOTIONS TO CONCUR IN HOUSE AMENDMENTS

SENATE MOTION

Madam President: I move that the Senate do concur with the House amendments to Engrossed Senate Bill 474.

Senator Simpson withdrew the call.

2:18 p.m.

The Chair declared a recess until the fall of the gavel.

Recess

The Senate reconvened at 3:46 p.m., with Senator Garton in the Chair.

Senator Harrison, who had been excused, was present.

MESSAGE FROM THE PRESIDENT OF THE SENATE

Members of the Senate: I have on the 19th day of April, 2005, signed Senate Enrolled Acts: 2, 13, 15, 77, 125, 200, 209, 223, 244,

266, 285, 306, 308, 326, 332, 372, 373, 376, 417, 442, 472, 482, 483, 503, 512, 518, 523, 527, 557, 566, 568, 569, 611, 612, and 619.

REBECCA S. SKILLMAN
Lieutenant Governor

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed Senate Bill 340 because it conflicts with HEA 1217-2005 without properly recognizing the existence of HEA 1217-2005, has had Engrossed Senate Bill 340 under consideration and begs leave to report back to the Senate with the recommendation that Engrossed Senate Bill 340 be corrected as follows:

Page 3, line 27, after "IC 31-19-17-2" insert ", AS AMENDED BY HEA 1217-2005, SECTION 2,".

Page 3, delete lines 35 through 42 and insert "to:

(1) the adoptive parents:

(A) ~~not later than the time the child is placed with the adoptive parents; at the time the home study or evaluation concerning the suitability of the proposed home for the child is commenced;~~ or

(B) with the consent of the adoptive parents, not more than thirty (30) days after the child is placed with the adoptive parents; and

(2) upon request, an adoptee who: ~~is:~~

(A) ~~is~~ at least twenty-one (21) years of age; and

(B) provides proof of identification."

(Reference is to ESB 340 as reprinted April 8, 2005.)

GARTON, Chair
R. YOUNG, R.M.M.
LAWSON

Report adopted.

SENATE MOTION

Madam President: I move that the Motion to Concur on Engrossed Senate Bill 432, filed April 14, 2005, be withdrawn from further consideration by the Senate.

MILLER

Motion prevailed.

REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 460:

Conferees: Server, Chair and Simpson

GARTON
Date: 4/21/05
Time: 3:44 p.m.

**REPORT OF THE
PRESIDENT PRO TEMPORE**

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 498:

Conferees: Server, Chair and Broden

GARTON
Date: 4/21/05
Time: 3:42 p.m.

SENATE MOTION

Madam President: I move we adjourn until 2:00 p.m., Monday, April 25, 2005.

LONG

Motion prevailed.

The Senate adjourned at 3:49 p.m.

MARY C. MENDEL
Secretary of the Senate

REBECCA S. SKILLMAN
President of the Senate